

Congress of the United States

Washington, DC 20515

February 4, 2026

The Honorable Robert F. Kennedy, Jr.
Secretary
Department of Health and Human Services (HHS)
200 Independence Avenue, S.W.
Washington, D.C. 20201

RE: RIN number 0970-AD20

Dear Secretary Kennedy,

We write in strong opposition to the proposed rule, “Restoring Flexibility in the Child Care and Development Fund (CCDF),”¹ that removes critical policies intended to make child care more affordable and accessible for working families and improve the stability of the child care sector. According to the most recent data available from the Department of Health and Human Services (Department), CCDF provides an average of over 1.4 million children in over 870,000 working families with child care assistance every month, helping them pay for child care in a setting of their choice.² If the proposed rule is enacted, more families could see their child care costs increase, and child care providers will become less financially stable.

Across the country, working families are demanding high-quality, affordable child care. However, child care has been hard to find and expensive for families for years, while many child care providers struggle to stay afloat. An estimated 4.2 million children lack access to a formal care slot in their local community.³ In many states, depending on the age of the child and child care setting, the cost of child care exceeds annual, average in-state cost of college tuition, rent payments, or even mortgage payments.⁴ The roughly 3 million parents of young children with disabilities face multiple barriers to searching for, securing, and using child care programs for their children.⁵ And due to current funding levels, subsidies from the Child Care and Development Block Grant (CCDBG) and related funding streams only reach 15 percent of federally eligible working families.⁶ At the same time, child care staff do not earn what would constitute a living wage in any state⁷, and providers face increasing operating expenses⁸. It is abundantly clear that this country needs to reform the child care system to

¹ Restoring Flexibility in the Child Care and Development Fund (CCDF), 91 Fed. Reg. 207 (proposed Jan. 5, 2026) (to be codified at 45 C.F.R. pt. 98), available at

<https://www.federalregister.gov/documents/2026/01/05/2025-24272/restoring-flexibility-in-the-child-care-and-development-fund-ccdf>.

² Administration for Children and Families, Office of Child Care, “FY 2022 Preliminary Data Table 1 - Average Monthly Adjusted Number of Families and Children Served”, <https://acf.gov/occ/data/fy-2022-preliminary-data-table-1> (last visited Jan. 28, 2026).

³ Buffett Early Childhood Institute at the University of Nebraska, “Child Care Gaps Assessment”, <https://childcaregap.org/> (last visited Jan. 28, 2026).

⁴ Child Care Aware of America, “Annual Child Care Landscape Analysis”, <https://www.childcareaware.org/price-landscape24/> (last visited Jan. 28, 2026).

⁵ U.S. Gov’t Accountability Office, GAO-24-106843, Child Care Accessibility: Agencies Can Further Coordinate to Better Serve Families with Disabilities (2024), <https://www.gao.gov/assets/gao-24-106843.pdf>

⁶ Letter from Kathryn Larin, Director of Education, Workforce, and Income Security, U.S. Gov’t Accountability Office, to Bill Cassidy, M.D., Chair, S. Comm. on Health, Education, Labor, and Pensions, Bernard Sanders, Ranking Member, S. Comm. on Health, Education, Labor, and Pensions, Tim Walberg, Chair, H. Comm. on Education and Workforce, Robert C. “Bobby” Scott, Ranking Member, H. Comm. on Education and Workforce, available at <https://www.gao.gov/assets/gao-25-107754.pdf>.

⁷ Center for the Study of Child Care Employment, “State-by-State Analysis Shows Child Care Workforce in Dire Straits”, <https://cscce.berkeley.edu/workforce-index-2024/2024/10/08/state-by-state-analysis-shows-child-care-workforce-in-dire-straits-but-some-state-actions-encouraging/> (last visited Jan. 28, 2026).

⁸ Press Release, National Association for the Education of Young Children, “NAEYC Survey Shows Child Care in ‘Unstable Status Quo’” (Feb. 25, 2025), <https://www.naeyc.org/about-us/news/press-releases/child-care-unsustainable-status-quo>.

improve services for families and support for providers. Regrettably, the proposed regulations would take the country in the exact opposite direction.

Existing policy caps families' co-payments for their child care subsidy at no more than 7 percent of income, which helps make the cost of care more affordable for working class households. Your proposed reversal of this policy could mean increased child care payments for families already living paycheck to paycheck. This is not conjecture but is based on the experience of many families prior to the 2024 "Improving Child Care access, Affordability, and Stability in CCDF" rule. Before the rule, 20 states had policies that resulted in families paying more than 7 percent of their income, including one as high as 27 percent of family income.⁹ Sixteen states lacked clear policies to restrict co-pays based on family income.¹⁰ Without a cap on co-pays, more families using child care subsidies could see an increase in child care costs in the midst of overall rising costs¹¹.

Further, the proposed regulation's reversal of critical provisions to help keep child care programs in business is also deeply concerning. Specifically, this includes the elimination of provisions that require states to pay providers based on enrollment, require states to use grants and contracts for some child care services, and require states to pay child care providers prospectively. Paying child care providers based on children's enrollment, rather than attendance, is consistent with the law, which requires states to delink payment from occasional absences, and also stabilizes business operations by giving providers reliable and predictable funding.¹² As noted by the Department in 2023, these are "[g]enerally accepted payment practices for parents who do not receive subsidies (which are most parents)..."¹³ Nearly half of states have already taken steps to pay providers based on children's enrollment.¹⁴ The Department claims the proposed regulation would give states "greater flexibility and multiple allowable options to meet the statutory requirement to delink provider payments from a child's occasional absence". In fact, the proposed rule dictates what amount of time counts as absence rather than allowing states to determine such matters, as allowed by the existing rule.

Additionally, current policies requiring states to compensate child care providers in advance reduce the upfront cost burdens that programs would otherwise have to bear and are also aligned with general practices for unsubsidized families. While the Department claims the proposed rule would give states "more options for establishing provider payment practices", its effect would give child care providers less certainty about their income.

Additionally, current rules require states to use grants and contracts with specific categories of providers, which guarantees slots for families using child care subsidies for children in underserved geographic areas, infants and toddlers, and children with disabilities. These grants and contracts help expand the supply of child care, particularly for populations that face shortages of child care options. Rescinding this policy could make care less easily available. Though the Department claims that this existing requirement reduces parent choice, it is worth noting that parents still have the choice to enroll their children at a participating provider regardless of

⁹ Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund (CCDF), 89 Fed. Reg. 15366, 15368 (proposed Mar. 1, 2024), available at <https://www.federalregister.gov/documents/2024/03/01/2024-04139/improving-child-care-access-affordability-and-stability-in-the-child-care-and-development-fund-ccdf>.

¹⁰ *Id.*

¹¹ The Century Foundation, Survey: The Affordability Crisis Is Here, and It's Hitting the Working Class the Hardest (December 11, 2025), <https://tcf.org/content/report/survey-the-affordability-crisis-is-here-and-its-hitting-the-working-class-the-hardest/>.

¹² See Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund (CCDF), 88 Fed. Reg. 45022, 45030 (proposed July 13, 2023), available at <https://www.federalregister.gov/documents/2023/07/13/2023-14290/improving-child-care-access-affordability-and-stability-in-the-child-care-and-development-fund-ccdf>.

¹³ Improving Child Care Access, *supra* note 9, at 15369.

¹⁴ New America, A State-by-State Summary of Prospective Payments Implementation Approaches (Sept. 15, 2025), <https://www.newamerica.org/new-practice-lab/blog/approaches-to-implementing-prospective-payments/>.

whether the provider engages in the program through a voucher or a grant or contract. Further, the Department claims the grant and contract provision could negatively affect faith-based providers. However, this Administration appears to not recognize that “[n]othing in federal law prohibits faith-based child care providers from receiving grants or contracts to provide direct child care services” so long as they are not “using the funds for sectarian purposes or activities, including sectarian worship or instruction”.¹⁵

In conclusion, the proposed rule pushes the child care sector in exactly the wrong direction. At a time when our child care system is struggling to stay afloat, this proposal could bring many working families and providers to the brink. We urge you to withdraw the proposed rule and retain policies to actually help children, families, and child care providers.

Sincerely,



Bernard Sanders
United States Senator
Ranking Member, Committee on
Health, Education, Labor, and
Pensions



Robert C. "Bobby" Scott
Member of Congress
Ranking Member, Committee on
Education and Workforce



Suzanne Bonamici
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United States Senator

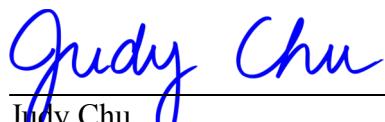


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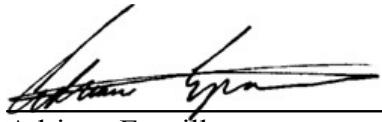
¹⁵ Improving Child Care Access, *supra* note 9, at 15383.



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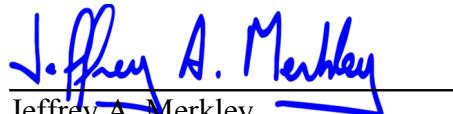
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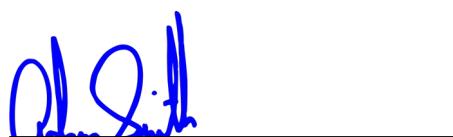

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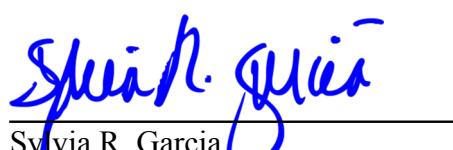

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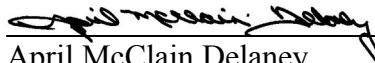

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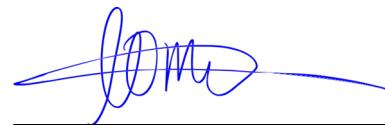

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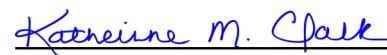
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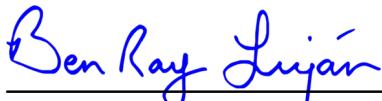
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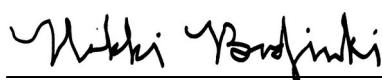
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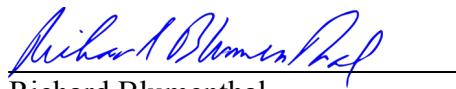
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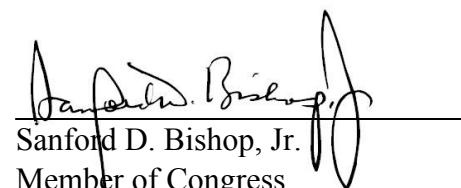
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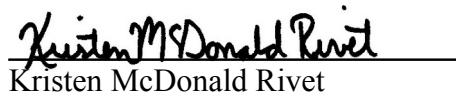
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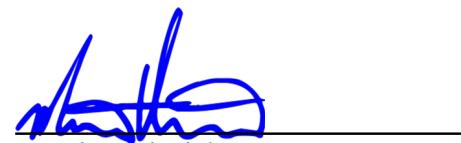

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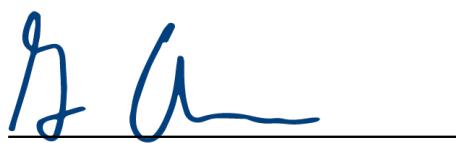

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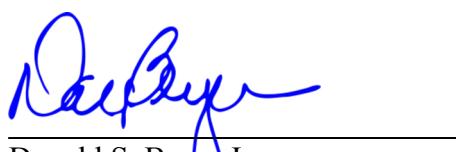

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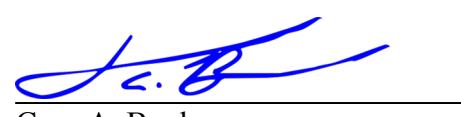

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